

Supporting Document 4

Budget Trade & Gas Chronology of ACLs

June 9, 1999 - San Diego Regional Water Quality Control Board (RWQCB) sent California Water Code (CWC) section 13267 letter requesting workplan by August 1, 1999 and corrective action plan (CAP) by September 1, 1999.

Sept. 22, 1999 - RWQCB sent Notice of Violation (NOV) for failure to comply with CWC section 13267 letter and requested contact by October 1, 1999.

October 28, 1999 - Administrative Civil Liability (ACL) Complaint No. 99-178 issued for failure to comply with CWC section 13267 letter, for \$223,000. (This was not heard before the Board within 60 days due to lack of quorum.)

January 12, 2000 - ACL Complaint No. 2000-23 issued for failure to comply with CWC section 13267 letter, for \$35,680.

February 9, 2000 - Board Hearing – ACL No. 2000-23 adopted with \$35,680 suspended provided that 2 conditions are met:

1. Workplan submitted by March 10, 2000
2. Corrective Action Plan submitted by August 7, 2000

March 8, 2000 - Board meeting – Status report presented to the Board.

April 12, 2000 - Board meeting – Status report presented to the Board.

June 14, 2000 - Executive Officer's report for June Board meeting – Status report of compliance. Although workplan was submitted, execution of workplan has not begun. Ground water monitoring not done to date either.

August 7, 2000 - Due date for CAP which was not submitted.

August 9, 2000 - Issuance of ACL No. 2000-23 which imposed civil liability of \$35,680 for failure to submit CAP by August 7, 2000 requested pursuant to CWC section 13267. Payment is due in 30 days – September 9, 2000.

August 11, 2000 - Executive Officer's report for August Board meeting – Status report of compliance. Letter sent to Mr. Hsu informing him that ACL No. 2000-23 was issued and payment is due in 30 days (September 9, 2000).

Sept. 12, 2000 - RWQCB letter to Mr. Hsu informing him that since civil liability assessment of \$35,680 from adopted ACL No. 2000-23 had not been paid, that RWQCB would seek judgement for amount of civil liability.

Sept. 13, 2000 - Executive Officer's report for September Board meeting – Status report of compliance. Since this summary was prepared prior to September 9, 2000, it states that the Executive Officer would give verbal update of whether civil liability was paid in 30 days of issuance (it was not).

Sept. 29, 2000 - ACL No. 2000-23 referred to Deputy Attorney (DA) General.

Sept. 29, 2000 - RWQCB letter to Mr. Hsu informing him that he has responsibility to submit CAP and that civil liabilities will continue to accrue from February 10, 2000.

Oct. 11, 2000 - Executive Officer's report for October Board meeting – Status report of compliance. Mr. Hsu was informed that ACL No. 2000-23 had been referred to the DA for judgement.

Nov. 6, 2000 - Administrative Civil Liability Complaint No. 2000-256 issued for continued failure to submit CAP requested pursuant to CWC 13267, for \$146,500. Scheduled for special Board meeting for November 29, 2000.

Nov. 21, 2000 - Special Board meeting for November 29, 2000 was cancelled and ACL Complaint No. 2000-256 was placed on December 13, 2000 agenda.

Dec. 13, 2000 - Board Meeting for adoption of ACL No. 2000-256. Board action deferred till February Board meeting pending submittal of CAP and payments on previous ACL (ACL No. 2000-23).

Jan. 17, 2001 - Executive Officer's Report for Board agenda – Status of compliance: Hsu's signed contract with environmental consultant, Hsu's submitted verification of tightness of UST system and functioning of monitoring probes. Hsu's did not submit free product removal by January 1, 2001 or make payment on ACL No. 2000-23.

Jan. 30, 2001 - Workplan for assessment, CAP, free product removal and ground water monitoring **received**.

Feb. 14, 2001 - Mr. Hsu submitted financial documents to demonstrate that, if imposed, ACL No. 2000-256 would place a financial burden on him that could cause bankruptcy. RWQCB requested a written summary of each document. The volume of the financial documents was so large that the agenda item was pulled from the February 21, 2001 Board Meeting agenda. The documents will be enclosed in the agenda package for the March 14, 2001 Board meeting.

March 14, 2001 - Board meeting. ACL No. 2000-256 continued to April Board meeting because the shipyard item took a long time.

April 11, 2001 - Board meeting. Staff presentation was that Mr. Hsu was in compliance with CAO No. 2000-255, had submitted a CAP, had made 2 payments on ACL No. 2000-23 and intended to make monthly payments. Staff recommended a continuation of this item to the October Board meeting to better access Mr. Hsu's compliance with CAO No. 2000-255 and his intention to make payments on ACL No. 2000-23. After discussion the Board members agree with this approach.

Oct. 10, 2001 - Board meeting. Staff presentation was that Mr. Hsu was in compliance with CAO No. 2000-255, had submitted free product recovery reports, had made payments on ACL No. 2000-23 totaling \$890 for payments up to and including August 2001. Staff recommended a continuation of this item to the April 2002 Board meeting to better access Mr. Hsu's compliance with CAO No. 2000-255 and his intention to continue make payments on ACL No. 2000-23. After discussion the Board members agree with this approach. The Board members also requested an "Ability to Pay Analysis" to be performed by the Office of Statewide Initiatives. This would analyze Mr. & Mrs. Hsu's ability to pay the civil liability imposed by ACL Order No. 2000-23.

May 8, 2002 - Board meeting. Staff presentation was that Mr. Hsu was in compliance, but achieving compliance with directives was difficult and required alot of staff time. Staff summarized the Pay for Performance program, and the advantages of pursuing this program for Budget Trade & Gas versus

continuing on a "time and materials" basis. In a Pay for Performance program, payments to the claimant (Mr. Hsu) are made as contaminant levels decrease with remediation, per a "condition of payment" contract with the UST Cleanup Fund. Staff recommended deferring a decision on ACL No. 2000-256 so staff could pursue Pay for Performance, with a 6 month progress update. After discussion the Board members agree with this approach.